

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL ALAN CROOKER,)	
)	
Plaintiff,)	CIVIL ACTION NO. 3:2009-39
)	
v.)	
)	
FIRST DATA SOLUTIONS, LLC,)	
)	JUDGE GIBSON
Defendant.)	

MEMORANDUM OPINION and ORDER OF COURT

This matter comes before the Court on the Defendant's Motion for Stay and for Sanctions (Document No. 3) and the Plaintiff's Voluntary Dismissal, Discontinuance, Voluntary Nonprosecution, and Opposition to Motion for Sanctions (Document No. 7). The Plaintiff originally brought this same claim against the Defendant in Massachusetts state court and the Defendant in turn removed that action to the United States District Court for the District of Massachusetts. *See* Exhibits A and B to Defendant's Motion.¹

This civil action is automatically dismissed on the request of the Plaintiff, pursuant to Federal Rule of Civil Procedure 41(a)(1)(i), as the Defendant has not answered the Plaintiff's complaint in this matter. However, it is recognized that since the Plaintiff previously brought this same Fair Debt Collection Practices Act claim against the Defendant in United States District Court for the District of Massachusetts and he dismissed that claim in lieu of the present civil action in this Court, *see* Exhibit

¹For a copy of the Complaint filed in Pennsylvania, see also Document 1-3; for a copy of the Massachusetts Complaint, see also Michael Alan Crooker v. First Data Solutions, U.S. District Court for the District of Massachusetts, C.A. No. 1:08-12145-DPW, Document No. 1-3.

G² to Defendant's Motion, that the Plaintiff's voluntary dismissal of this present civil action operates as an adjudication on the merits against the Plaintiff on this claim pursuant to Federal Rule of Civil Procedure 41(a)(1)(B). Therefore, judgment will be entered in favor of the Defendant. The parties addressed the propriety of the sanction imposed by the District Court in Massachusetts against the Plaintiff and the Defendant wishes this Court to force the Plaintiff to pay the previously imposed sanction of the \$350.00 removal fee to that District Court as well as the \$350.00 removal fee in this matter. This Court declines to impose a sanction for the removal fee of the present civil action, as well as require payment of the removal fee from the United States District Court for the District of Massachusetts under Federal Rule of Civil Procedure 41(d).

²This document can also be found at Michael Alan Crooker v. First Data Solutions, U.S. District Court for the District of Massachusetts, C.A. No. 1:08-12145-DPW, Document No. 10. Judge Douglas P. Woodlock entered an electronic order on February 12, 2009 recognizing this document as a notice of voluntary dismissal. See electronic docket text entry of 2/12/2009 at Michael Alan Crooker v. First Data Solutions, U.S. District Court for the District of Massachusetts, C.A. No. 1:08-12145-DPW.

AND NOW, this 17th day of April, 2009, IT IS HEREBY ORDERED THAT the Defendant's Motion for Stay and for Sanctions (Document No. 3) is DENIED;

IT IS FURTHER ORDERED THAT the Plaintiff's Voluntary Dismissal, Discontinuance, Voluntary Nonprosecution, and Opposition to Motion for Sanctions (Document No. 7) is GRANTED and the Plaintiff's request for voluntary dismissal is permitted pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), and this matter is dismissed and judgment shall be entered on behalf of the Defendant against the Plaintiff as this second dismissal of the Plaintiff's Fair Debt Collection Practices Act claim against the Defendant operates as an adjudication on the merits of this claim pursuant to Federal Rule of Civil Procedure 41(a)(1)(B).

The Clerk of Court shall mark this matter closed and enter judgment for the Defendant and against the Plaintiff in a separate order pursuant to Federal Rule of Civil Procedure 58.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

**KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE**